THE HON'BLE Mr. JUSTICE V.ESWARAIAH

WRIT PETITION No.2902 of 2006

DATED:17.02.2006

Between:

Gali Sudarshan Naidu ……Petitioner

AND

1. The District Collector,

Chittoor District, Chittoor and others

...Respondents

THE HON'BLE Mr. JUSTICE V.ESWARAIAH

-

WRIT PETITION No. 2902 of 2006

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in attempting to dispossess the petitioner from the lands admeasuring Ac.1.80 Cents in Sy.No.6/2 of Modugulapalem Village, Yerpedu Mandal, Chittoor District, as arbitrary and illegal and consequently to direct them not to interfere with the possession and enjoyment of the petitioner in respect of the said lands and also to direct the third respondent- Mandal Revenue Officer to grant assignment to the petitioner.

The learned Counsel appearing for the petitioner submits that the petitioner is in

possession of an extent of Ac. 1.80 cents in Sy.No.6/2 situated Modugulapalem Village, Yerpedu Mandal, Chittoor District for the last forty years. It is stated the said land originally belong to one Alivelamma, and pursuant to the Inam Abolition Act, the said land was taken over by the Government. It is stated that admittedly the land belongs to the Government, but the petitioner is in possession and enjoyment of the same. No doubt, he has no title over the said land but he is in continuous possession of the same for a long time. Hence, without taking recourse under the Land Encroachment Act, or any other relevant Act, the petitioner cannot be dispossessed without following the due procedure prescribed under the law.

The learned Standing Government Pleader appearing for the respondents submit that the land in Survey No.6/2 was also claimed by one S. Gurrappa Naidu and P. Venkata Rama Naidu and their legal heirs P. Chandrasekhar Naidu, D.Munemma and Ammannamma filed a petition before the Joint Collector, Chittoor, requesting for the implementation of the orders of the Settlement Officer and Estate Abolition Tribunal-cum-District Judge, Chittoor, granting Ryotwari patta in favour of P. Venkata Rama Naidu and others. In that connection, the land was inspected by the then Mandal Revenue Officer, who submitted a detailed report in Roc A/1069/99, dated 29.09.2004 for implementation of the orders of the Estate Abolition Tribunal-cum-District Judge, Chittoor. During the course of inspection, the petitioner objected and therefore, the petitioner was issued a notice in Roc.No.A/1069/99 dated 11.02.2006 to produce the connected records and documents possessed by him in support of his claim that he has a right over the said land.

It is the case of the petitioner that he has no legal right but even assuming that he is an encroacher, he cannot be evicted without following the due procedure prescribed under the law.

Admittedly, the notice, dated 11.02.2006 is not a notice under the Land Encroachment Act.

Having regard to the facts and circumstances of the case, without expressing any opinion on the merits of the case, I deem it appropriate to direct the respondents not to dispossess the petitioner from the land in question, without following the due procedure prescribed under law. However, it is open for the respondents to issue a notice either as per the Land Encroachment Act or any other relevant Act to take appropriate action pursuant to the orders of the Settlement Officer and Estate

Abolition Tribunal-cum-District Judge, Chitoor, in accordance with law.

With the above directions, the Writ Petition is disposed of. No order as to costs.

_____

17th February, 2006

bud